

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARRICK FULLER,)	
)	
Plaintiff,)	
)	
v.)	1:21CV458
)	
CHRISTOPHER FREEMAN, et al.,)	
)	
Defendant(s) .)	

ORDER

This matter is before this court for review of the Recommendation filed on June 16, 2021, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 3.) In the Recommendation, the Magistrate Judge recommends that this action be filed and dismissed without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms. The Recommendation was served on the parties to this action on July 9, 2021, (Doc. 6). Plaintiff has filed a document entitled, "Notice of Appeal Notice of Objection(s)." (Doc. 7.) The court construes said document as an objection to the Recommendation for the purposes

of this action.¹

This court is required to "make a de novo determination of those portions of the [Magistrate Judge=s] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge=s Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 3), is **ADOPTED. IT IS FURTHER ORDERED** that this action be, and is hereby, dismissed without prejudice to

¹ In this document, Plaintiff references another case, Fuller v. Lingle, No. 1:21CV261 (M.D.N.C. 2021). The notice of appeal and objections, (Doc. 10), in the 1:21CV261 case was construed as a Notice of Appeal from the July 6, 2021 Judgment in that matter. (See Case No. 1:21CV261, Docs. 9, 10.) No judgment was filed in this case. Therefore, the Notice of Appeal in this case, (Doc. 7), is construed as an objection to the Recommendation. Plaintiff is notified that if he intends to appeal this Order and Judgment, the filing of a Notice of Appeal is required.

Plaintiff filing a new complaint, on the proper § 1983 forms, correcting the defects set out in the Order and Recommendation.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 13th day of September, 2021.


United States District Judge